

Expedited Procedure Under 37 C.F.R. §1.116
Appl. No. 10/811,477
Paper Dated April 28, 2006
In Reply to USPTO Correspondence of March 2, 2006
Attorney Docket No. 0644-031015

(hereinafter the “Illustration”) in view of the teaching of United States Patent Application Publication No. 2004/0222179 A1 by Garcia (hereinafter the “Garcia application”).

The Applicants respectfully disagree with this rejection. Claim 1 is directed to a fixture carrier, which as stated in subparagraph (a)(ii) of that claim, comprises at least one top connection of the top crossbar and at least one bottom connection of the bottom crossbar which are adjustable to permit adjustment of the horizontal distance between the uprights. The Illustration includes a structure with a steel plate welded to the top and a steel plate welded to the bottom of two uprights to provide, as stated in the upper left corner of the Illustration, a “Rigid, one-piece pre-assembled steel construction”. Additionally, as stated at the bottom of the Illustration, the structure includes a “Steel plate welded to upright”. There is neither a teaching nor a suggestion in the Illustration of a frame having horizontal adjustment. The horizontal adjustability of the design in the Illustration is provided by laterally adjustable brackets which may, depending upon the location of the individual brackets, introduce offset loads to each bracket and excessive shear force upon the bolts used for those brackets. Therefore, it is clear that the Illustration neither teaches nor suggests horizontally adjustable top and bottom crossbars.

While the Garcia application is directed to a modular rack system, which does have adjustable horizontal members, the Illustration clearly teaches away from such a feature because such a feature would not provide a rigid one-piece pre-assembled steel construction nor would such a structure involve steel plate welded to the uprights. The rigid welded frame structure of the Illustration is clearly an important feature disclosed in that reference. Horizontal adjustability is provided by the adjustable horizontal members. Combining the teaching of these two references contradicts the benefits claimed in the Illustration design. For these reasons, independent claim 1 is not believed to be obvious of the teaching of the Illustration in view of the teaching of the Garcia application.

By way of their dependence upon what is believed to be patentably distinct independent claim 1, dependent claims 2-14, 17 and 18 are themselves believed to be patentably distinct over the prior art of record.

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Claim 19, subparagraph (a) (ii) is also directed to a fixture carrier having at least one top connection at the top crossbar and at least one bottom connection at the bottom crossbar which are adjustable to permit adjustment of the horizontal distance between uprights. For that reason, the same argument presented in support of the patentability of independent claim 1 applies. Furthermore, by way of its dependence upon what is believed to be patentably distinct independent claim 19, dependent claim 20 itself is believed to be patentability distinct over the prior art of record.

Claim 21 is directed to a method of assembling a fixture carrier, wherein the carrier has a top crossbar and a bottom crossbar and wherein the top crossbar is adjustably connected at one end to the top region of one upright and connected to the other end of the top region of the other upright. The method comprises the steps of positioning one upright a predetermined distance from the other upright. Therefore, claim 21 is directed to horizontally adjusting the uprights relative to one another and, as previously discussed, this feature is neither taught nor suggested by the Illustration nor by the Garcia application. For that reason, independent claim 21 is believed to be patentably distinct over the prior art of record.

Reconsideration of claims 1-14 and 17-21 and allowance of claims 1-21 are respectfully requested.

Respectfully submitted,

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